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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,320	02/05/2002	Brian K. Culley	CG-949	8833

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LOUISVILLE, KY 40202

EXAMINER
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ELOSHWAY, NIKI MARINA

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/068,320

Applicant(s)

CULLEY, BRIAN K.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-8,13-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 1, 5-8, 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: On line 17, "neck bead" should be changed to --finish bead-- in order to keep the claim language consistent. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-7 and 13-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Csaszar (U.S. 4,907,708). Csaszar teaches a closure 1, shown in figure 10, having a top wall, a skirt 11 and a tamper indicating band at 12. The frangible webs are elements 14. The annular step is shown at 7a. The tamper indicating bead is shown at 7b and has a substantially horizontal upper surface to the degree set forth in the claims. The finish bead of the container is element 16 and has a substantially horizontal lower surface to the degree set forth in the claims. The upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located at lead line 16. The transition surface is shown just above lead line 16. The annular step engages the lower portion when the closure is being applied to the container.

Regarding claims 21 and 22, Csaszar teaches a closure 1, shown in figure 7, having a top wall, a skirt 11 and a tamper indicating band at 12. The frangible webs are elements 14. The annular step

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is shown at 7a. The tamper indicating bead is shown at 7c. The finish bead of the container is element 16. The upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located below lead line 16.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1, 5-8, 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csaszar (U.S. 4,907,708) in view of Csaszar (U.S. 4,343,408). Csaszar teaches a closure 1, shown in figure 10, having a top wall, a skirt 11 and a tamper indicating band at 12. The frangible webs are elements 14. The annular step is shown at 7a. The tamper indicating bead is shown at 7b. The finish bead of the container is element 16 and has a substantially horizontal lower surface to the degree set forth in the claims. The upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located at lead line 16. The transition surface is shown just above lead line 16. The annular step engages the lower portion when the closure is being applied to the container.

'708 discloses the claimed invention except for the upper surface of the bead being substantially horizontal. '408 teaches that it is known to provide a tamper band with a bead having a substantially horizontal upper surface (see element 18 in figures 3-5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure of '708 with the bead having an upper surface which is substantially horizontal, as taught by '408, in order to provide a more

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firm engagement between the container bead and the tamper indicating bead (see col. 5 lines 6-13 of '408).

Regarding claims 21 and 22, Csaszar teaches a closure 1, shown in figure 7, having a top wall, a skirt 11 and a tamper indicating band at 12. The frangible webs are elements 14. The annular step is shown at 7a. The tamper indicating bead is shown at 7c. The finish bead of the container is element 16. The upper portion of the finish bead is located above lead line 16 at the top of the bead, and the lower portion of the finish bead is located below lead line 16.

#### *Allowable Subject Matter*

6. Claim 24 is allowed.

#### *Response to Arguments*

7. Applicant's arguments filed August 23, 2004 have been fully considered but they are not persuasive. The neck bead of Csaszar is considered to have a substantially horizontal lower surface, as set forth in the amended claims, to the degree set forth in the claims.

#### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

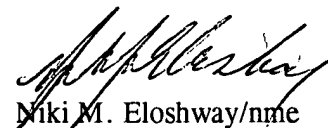
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the

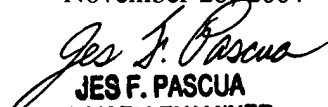
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advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Receptionist at (703) 308-1148.

  
Niki M. Eloshway/nme  
Patent Examiner  
November 26, 2004

  
**JES F. PASCUA**  
**PRIMARY EXAMINER**